

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

The Board of Regents of the University
of Houston System on behalf of the
University of Houston System and
its Member Institutions;
The University of Houston System; and
The Board of Regents of the University
of Houston System,

Plaintiffs,

v.

South Texas College of Law,

Defendant.

Civil Action No. 4:16-cv-01839

JURY

**PLAINTIFFS' SECOND POST-HEARING SUPPLEMENT
IN SUPPORT OF THEIR
MOTION FOR PRELIMINARY INJUNCTION**

Plaintiffs UH submit this second post-hearing supplement concerning additional instances of actual confusion caused by the similarity of the “Houston College of Law” name and logo to UH’s trademarks and colors. UH became aware of each of these additional instances after September 2, 2016, which is the date of UH’s first post-hearing supplement.

I. Actual Confusion at the 2016 Graduate and Professional School Fair

As set forth in the declaration of Ms. Anna Johnson (Exh. KKK), she attended the 2016 Graduate and Professional School Fair in Lubbock, Texas on September 13, 2016, as a representative of UH’s Graduate College of Social Work. Exh. KKK at ¶¶ 2 & 3. Ms. Johnson was seated behind a table that had a red and white banner with “University of Houston Graduate College of Social Work” on it, along with red and white University of Houston brochures. *Id.* at 3. A male attendee approached Ms. Johnson’s table and indicated that he had just spoken with a

representative from “your law school.” *Id.* at ¶4. Ms. Johnson told him that she did not realize that the University of Houston’s college of law had representatives at the Fair. *Id.* He said there were, and that he had just spoken with representatives from the University of Houston’s college of law. *Id.* Ms. Johnson thanked him and said she would go over and say “hello.” *Id.* After he left, Ms. Johnson walked to where the law school tables were. *Id.* From a distance she saw a red and white banner and she thought it was indeed the University of Houston Law Center. *Id.* As she approached, she could see it was actually a table for “Houston College of Law.” *Id.* She surveyed all of the law school tables and did not find representatives from the University of Houston. *Id.* She later confirmed that the University of Houston Law Center did not attend the fair. *Id.*

This is an example of a prospective law student actively seeking information from law school representatives who was actually confused into thinking that “Houston College of Law” is affiliated with the University of Houston.

II. Actual Confusion During the Law School Admission Counsel Application Process

As set forth in the declaration of Nathan Neely (Exh. LLL), as UH’s Director of Admission for the University of Houston Law Center, he received a phone call on September 15, 2016, from a prospective law student asking if the application fee could be waived. Exh. LLL at ¶ 3. Mr. Neely responded that “we do not have an application fee.” *Id.* at 3. He then asked her if she was on the Law School Admission Counsel (LSAC) website, to which she replied she was. *Id.* She confirmed that she was being charged a \$55 application fee. *Id.* He asked her if she intended to contact “Houston College of Law” or the University of Houston Law Center. *Id.* She stated she meant to contact “Houston College of Law.” *Id.*

This is an example of a prospective law student in the law school application process who was actually confused into thinking that “Houston College of Law” is also the University Of Houston Law Center. According to STCL’s arguments, for this prospective student to be this far into the application process, she would have visited the “Houston College of Law” website at least once. And yet she was still confused.

III. Actual Confusion by a Third Year UH Student

As set forth in the declaration of Ms. Carla Palaez (Exh. MMM), she is currently a third-year law student at the University of Houston Law Center. Exh. MMM at ¶ 2. On July 20, 2016, Ms. Palaez used her phone to log into the National Conference of Bar Examiners (NCBE) and Law School Admission Counsel (LSAC) portals to register for the Multi-State Professional Responsibility Exam (MPRE). *Id.* at 3. The registration process requires that students select a testing location. *Id.* Ms. Palaez intended to sit for the MPRE at the University of Houston Law Center. *Id.* However, instead of selecting the University of Houston Law Center location, Ms. Palaez selected the “Houston College of Law” location. *Id.* She found out after she had completed the application process—from a peer—that the University of Houston Law Center location had filled up before she registered. *Id.* She logged back into the portals and discovered that she had signed up for the “Houston College of Law” location by mistake. *Id.*

This is an example of an “actual student” (*i.e.*, post-sale) confusion caused by the similarity of the “Houston College of Law” and University of Houston Law Center names. Regardless of the sophistication of prospective and actual students, the overwhelming similarity of the competing marks creates actual confusion.

Dated September 20, 2016

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s/Anthony G. Buzbee by permission ABD

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document and exhibits, if any, have been served via the Court's ECF system on those counsel of record who have registered as filing users of the ECF system for this case pursuant to LR 5.1, and by mail on those counsel of record who are not registered as filing users with ECF, as of this 20th day of September 2016.

s/ Albert B. Deaver, Jr.
Albert B. Deaver, Jr.